



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

Department of
Environmental Quality

William J. Sinclair
Acting Executive Director

DIVISION OF AIR QUALITY
Cheryl Heying
Director

DAQ-087-08

MEMORANDUM

TO: Air Quality Board

THROUGH: Cheryl Heying, Executive Secretary

FROM: Colleen Delaney, Environmental Scientist

DATE: December 9, 2008

SUBJECT: FINAL ADOPTION: Amend R307-405-2. Permits: Major Sources in Attainment or Unclassified Areas (PSD). Applicability; and FIVE-YEAR REVIEW: R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD)

On October 1, 2008, the Air Quality Board proposed updating the incorporation by reference date for 40 CFR 52.21 to the July 1, 2008, version. A 30-day public comment period was held beginning November 1, 2008. No comments were received and a public hearing was not requested.

Staff Recommendation: DAQ staff recommends that R307-405-2 be adopted as proposed.

In addition, DAQ has completed a five-year review for R307-405, and as a separate action, staff recommends that the Board continue this rule by approving the attached forms to be filed with the Division of Administrative Rules.

1 **R307. Environmental Quality, Air Quality.**

2 **R307-405. Permits: Major Sources in Attainment or Unclassified**
3 **Areas (PSD).**

4 **R307-405-2. Applicability.**

5 (1) All references to 40 CFR in R307-405 shall mean the
6 version that is in effect on July 1, 2008.

7 (2) The provisions of 40 CFR 52.21(a)(2) are hereby
8 incorporated by reference.

9 (3) Notwithstanding the exemptions in R307-401, any source
10 that is subject to R307-405 is subject to the requirement to
11 obtain an approval order in R307-401-5 through 8.

12
13 **KEY: air pollution, PSD, Class I area**

14 **Date of Enactment or Last Substantive Amendment: 2009**

15 **Notice of Continuation: July 13, 2007**

16 **Authorizing, and Implemented or Interpreted Law: 19-2-104**
17
18

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-606. Grants to Purchase or Retrofit Clean School Buses.

R277-606-1. Definitions.

A. "Appropriation" for purposes of this rule means one-time funding provided by the 2008 Utah Legislature for the purpose of encouraging school districts to purchase or retrofit their school buses to meet federal standards as defined in 42 U.S.C. Sec. 16091, January 3, 2006, which are hereby incorporated by reference.

B. "Board" means "the State Board of Education."

C. "Matching funds" ~~[from school districts means monies provided by school district applicants in a fifty/fifty match for funding provided under Section 41-6a-1308 and this rule]~~ means grant funding provided by the federal government or private sources to school districts for the purchase or retrofit of clean school buses as defined in 42 U.S.C. 220 Sec. 1609.

D. "USOE" means the Utah State Office of Education.

R277-606-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and by Section 41-6a-1308 which directs the Board ~~[to use the appropriation in this section to provide matching grants to school districts that agree to purchase or retrofit school buses to meet the federal standards]~~, in consultation with school districts and the Air Quality Board, to adopt idling programs and standards for public school buses.

B. The purpose of the rule is to distribute ~~[\$100,000]state funds appropriated by the 2008 Legislature to school districts [that agree to provide matching funds]~~ to match grants awarded by the federal government or private sources to purchase new school buses or retrofit existing school buses to meet designated federal clean air standards, to the extent of funds available.

R277-606-3. State Board of Education Grants and Timelines.

A. The USOE acting on behalf of the Board shall provide an electronic application for grants under Section 41-6a-1308 and R277-606 directed to school districts.

B. The USOE shall work closely with the Utah Division of Environmental Quality (DEQ) in developing the application for state funds.

~~[C. The USOE shall make applications available by June 1, 2008.~~

~~[D.]~~ C. The USOE in consultation with the DEQ shall select grant applicants based on:

- (1) availability and stability of matching funds;
- (2) district support for improving school buses and maintaining and servicing the improvements;
- (3) geographic and district-size diversity of applicants; and

(4) other criteria, as determined mutually by the USOE and the DEQ.

~~[E.]~~ D. The USOE shall notify successful grant recipients ~~[no later than July 15, 2008]~~ upon application approval.

~~[F.]~~ E. If there are insufficient grant applications that meet all requirements of Section 41-6a-1308 and R277-606, the Board may retain the funding and seek grant applicants throughout the 2008-09 school year and beyond, if necessary.

R277-606-4. School District Responsibilities.

A. School district applicants shall ~~[identify matching funds from appropriate sources, as required under Section 41-6a-1308(3)]~~ obtain government or private grants and receive state funds appropriated to the Board by the Legislature for the purposes of this rule.

~~[B. School district applicants shall submit grant applications no later than June 30, 2008.~~

~~[C.]~~ B. School district applicants shall agree to participate in all evaluation and reporting requirements established by the USOE and the DEQ consistent with the purposes of Section 41-6a-1308.

KEY: school buses, retrofit, purchases, grants

Date of Enactment or Last Substantive Amendment: ~~[August 7,] 2008~~

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 41-6a-1308

Environmental Quality, Air Quality **R307-405-2** Applicability

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 32042
FILED: 10/14/2008, 09:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change updates the version of 40 CFR that is incorporated in Rule R307-405. The federal Prevention of Significant Deterioration (PSD) permitting program in 40 CFR 52.21 is incorporated by reference in Rule R307-405. Two amendments have been made to 40 CFR 52.21 since 07/01/2007, the current incorporated version.

SUMMARY OF THE RULE OR CHANGE: Updates the incorporation by reference of the 40 CFR to 07/01/2008. Changes to 40 CFR 52.21 include the exclusion of ethanol production facilities from the definition of chemical process plants, and a clarification in the record keeping requirements for a modification where there is a "reasonable possibility" that the change would result in a significant increase of any regulated New Source Review (NSR) pollutant.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 52.21

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change.

❖ **LOCAL GOVERNMENTS:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Small Business: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change. Other Persons: A possible savings may accrue due to the removal of ethanol production facilities from the definition of chemical process, which will remove ethanol production facilities from the PSD permitting program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost is anticipated with this rule change. No new requirements were created with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No cost is anticipated with this rule change. No new requirements were created with this rule change. A possible savings may accrue due to the removal of ethanol production facilities from the definition of chemical process, which will remove ethanol production facilities from the PSD permitting program.

Rick Sprott, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kimberly Kreykes at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2009

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD).

R307-405-2. Applicability.

(1) All references to 40 CFR in R307-405 shall mean the version that is in effect on July 1, 2008[7].

(2) The provisions of 40 CFR 52.21(a)(2) are hereby incorporated by reference.

(3) Notwithstanding the exemptions in R307-401, any source that is subject to R307-405 is subject to the requirement to obtain an approval order in R307-401-5 through 8.

KEY: air pollution, PSD, Class I area

Date of Enactment or Last Substantive Amendment: ~~January 11, 2008~~ **2009**

Notice of Continuation: July 13, 2007

Authorizing, and Implemented or Interpreted Law: 19-2-104

Environmental Quality, Drinking Water **R309-700** Financial Assistance: State Drinking Water Project Revolving Loan Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32028

FILED: 10/13/2008, 09:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to: 1) add changes to the State SRF (State Revolving Fund) program made by the State Legislature in 2007 (H.B. 99) which amended Sections 73-10c-2, 73-10c-4, 73-10c-4.5, and 73-10c-5 and enacted Section 73-10c-10; 2) make the rule more consistent with Rule R309-705 (Federal SRF program); 3) clarify rule language; 4) modify the point system used to determine the terms of the loan; and 5) update and correct terminology and grammar. (DAR NOTES: H.B. 99 (2007) is found at Chapter 142, Laws of Utah 2007, and was effective 04/30/2007. The proposed amendment to Rule R309-705 is under DAR No. 32029 in this issue, November 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This will allow the Division of Drinking Water to improve compliance with Title R309 rules and better help protect the public against water borne health risks through funding of studies, planning, educational activities, and design of facilities. The changes will also encourage and promote regionalization of water system in order to improve their financial, managerial, and technical capabilities to serve their customers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-4-104, 63G-4-202, and Title 73, Chapter 10c

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** These changes are not anticipated to affect the state cost of administering the state loan program. The change will allow the state to charge the state SRF program a loan origination fee to those systems borrowing funds. There will be a slight cost savings because the state

State of Utah

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR file no:

Date filed:

Utah Admin.

R307-405

Time filed:

Code ref. (R no.):

1. Agency: Environmental Quality/Air Quality

Room no.:

Building:

Street address 1: 150 N 1950 W

Street address 2:

City,state,zip: SALT LAKE CITY, UT 84116-3085

Mailing address 1: PO BOX 144820

Mailing address 2:

City,state,zip: SALT LAKE CITY, UT 84114-4820

Contact person(s):

Name:

Phone:

Fax:

E-mail:

Remove:

Kimberly Kreykes 801-536-4042 801-536-4099 kkreykes@utah.gov

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2. Title of rule or section (catchline):

Permits: Major Sources in Attainment or Unclassified Areas (PSD).

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule:

Section 19-2-108 states that "The board shall require that notice be given to the executive secretary by any person planning to construct a new installation which will or might reasonably be expected to be a source or indirect source of air pollution or to make modifications to an existing installation which will or might reasonably be expected to increase the amount of or change the character or effect of air contaminants discharged..." Rule R307-405 implements the federal Prevention of Significant Deterioration (PSD) permitting program for major sources and major modifications in attainment areas and maintenance areas as required by 40 CFR 51.166. Subsection 19-2-104(3)(q) states that the Air Quality Board may meet the requirements of federal laws. Rule R307-405 is also required by Section VIII, Prevention of Significant Deterioration of the State Implementation Plan. This plan is required under Clean Air Act, 42 U.S.C. 7410 and 40 CFR 51.166.

4. A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule:


R307-405 was amended once since its last review (DAR No. 32042). No comments were received.

5. A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:

Rule R307-405 is required by Section 19-2-108. Rule R307-405 is also required by Section VIII, Prevention of Significant Deterioration (PSD) of the State Implementation Plan (SIP), which is incorporated by reference under R307-110. This plan is required

	under Clean Air Act, 42 U.S.C. 7410 and 40 CFR 51.166. Without this plan, EPA would be required to impose a federal implementation plan.
6.	Indexing information - keywords (maximum of four, in lower case): air pollution, PSD, Class I area
7.	Attach an RTF document containing the text of this rule change (filename): There is currently a document associated with this filing. <input type="button" value="Rule Text"/>
To the agency: Information requested on this form is required by Section 63-46a-9. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date.	

AGENCY AUTHORIZATION

Agency head or designee, and title: 	12/08/2008 Date (mm/dd/yyyy):
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